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DATE: August 14, 2007

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To: NAME: **FRANCINE YOUNG, USPTO**
FACSIMILE: **(571) 270-9774**

FROM: NAME: **ELIZABETH D. LEWEN**
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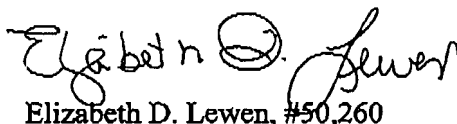
RE: OUR REF: **MCN226USPT02 (US APPLN. No. 10/597682)**

DOCUMENTS TRANSMITTED: POSITIVE WRITTEN OPINION FROM PCT

Dear Ms. Young:

Per our conversation today, I am attaching a copy of the Written Opinion issued by ISA/US indicating that all claims satisfy provisions of PCT Article 33(1)-(4) in PCT/US05/45133 of which US Appln. No. 10/597682 is a 371 application. Therefore, no Examination Fee or Search fee is required and the Notification of Insufficient Fees issued August 6, 2007 should be withdrawn in the US Appln. No. 10/597682.

If any additional information is required, please call. Thank you for your prompt attention to this matter.


Elizabeth D. Lewen, #50,260
Sherrill Law Offices, PLLC

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PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
ELIZABETH D. LEWEN
SHERRILL LAW OFFICES, PLLC
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PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

| | |
|---|---|
| Date of mailing (day/month/year) 27 JUN 2006 | |
| Applicant's or agent's file reference MCN226WOPT02 | |
| FOR FURTHER ACTION See paragraph 2 below | |
| International application No. PCT/US05/45133 | International filing date (day/month/year) 13 December 2005 (13.12.2005) |
| Priority date (day/month/year) 10 January 2005 (10.01.2005) | |
| International Classification (IPC) or both national classification and IPC IPC: G01M 3/34(2006.01),3/00(2006.01);G01N 1/00(2006.01),1/10(2006.01),1/22(2006.01) USPC: 73/49.3,52,863.85,864.74 | |
| Applicant MOCON, INC | |

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

| | | |
|--|---|---|
| Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201 | Date of completion of this opinion 18 May 2006 (18.05.2006) | Authorized officer Hezron Williams Telephone No. (571) 272-2800 |
|--|---|---|

Form PCT/ISA/237 (cover sheet) (April 2005)

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/US05/45133

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of:

- ☒ the international application in the language in which it was filed
☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

- ☐ a sequence listing
☐ table(s) related to the sequence listing

b. format of material

- ☐ on paper
☐ in electronic form

c. time of filing/furnishing

- ☐ contained in the international application as filed.
☐ filed together with the international application in electronic form.
☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

Form PCT/ISA/237(Box No. I) (April 2005)

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**International application No.
PCT/US05/45133**Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)

Claims 1-4 YES
Claims NONE NO

Inventive step (IS)

Claims 1-4 YES
Claims NONE NO

Industrial applicability (IA)

Claims 1-4 YES
Claims NONE NO**2. Citations and explanations:**

Claims 1 and 2 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest "a mass flow rate sensor in sealed fluid communication with the lumen defined by the needle" and "contact with the mass flow rate sensor so as to permit sensing of any continuing mass flow" in combination with the rest of the limitations in claims 1 and 2.

Claims 3 and 4 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest "measuring mass flow rate" and "a mass flow rate...above a threshold value indicates a leak" in combination with the rest of the limitations in claims 3 and 4.

Claims 1-4 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.

Form PCT/ISA/237 (Box No. V) (April 2005)